

PATENT APPLICATION



IN THE U.S. PATENT AND TRADEMARK OFFICE

April 3, 2008

Applicant(s): Roger D. WAY et al.

For: SWEET CHERRY TREE NAMED 'NEWFANE'

Serial No.: 09/894 352 Group: 1661

Confirmation No.: 7510

Filed: June 27, 2001

Examiner: Bell

International Application No.: N/A

International Filing Date: N/A

Atty. Docket No.: 4612.P0006US

Mail Stop: Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO NOTICE UNDER 37 CFR 1.251 AND
NOTICE TO FILE CORRECTED APPLICATION PAPERS

Sir:

This response is in reply to the Notice Under 37 CFR 1.251 dated March 17, 2008 and the Notice to File Corrected Application Papers dated March 27, 2008.

Please find enclosed color drawings of the plant variety claimed in the referenced application. The enclosed color drawings (Figure 1/2 and Figure 2/2) are complete, enclosed in duplicate and accurate duplicates of Applicants' drawings submitted with the application as filed.

The Notice Under 37 CFR 1.251 required that reply be sent to:

U.S. Patent and Trademark Office
Mail Stop: Duplicates
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Alexandria, Virginia 22313-1450


The Notice to File Corrected Application Papers requested that the reply be sent to:

Mail Stop Issue Fee
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P.O. Box 1450
Alexandria, VA 22313-1450

Since the Mail Stops are different, I spoke with Bill in the Invention Assistance Center and he said that I should send the Response to Mail Stop Issue Fee and include copies of both notices. Therefore copies of both Notices are enclosed.

Expeditious grant and printing of a patent on this application is courteously solicited.

Respectfully submitted,


Sidney B. Williams, Jr.

SBW/jas

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Donald J. Wallace	Reg. No. 43 977
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Dale H. Thiel	Reg. No. 24 323
Sidney B. Williams, Jr.	Reg. No. 24 949
Heon Jekal	Reg. No. L0379*

*limited recognition number

Encl: Copy of Notice Under 37 CFR 1.251
Copy of Notice to File Corrected Application Papers
Duplicates of Figures 1/2 and 2/2 (in color)
Copy of Executed Notice Under 37 CFR 1.251
Postal Card

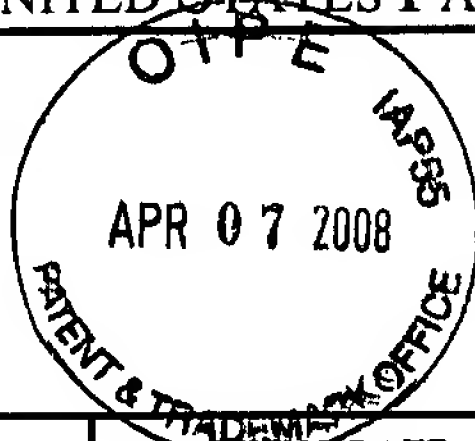
CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on April 4, 2008.


Sidney B. Williams, Jr.



UNITED STATES PATENT AND TRADEMARK OFFICE



UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,352	06/27/2001	Roger D. Way	4612,P0006US	7510
7590 03/17/2008		BHT _____ DOB _____ FIG _____ MLM _____ LLC _____ BRT _____ SRT _____ DJW _____ SRV _____	EXAMINER BELL, KENT L	
Sidney B. Williams, Jr. FLYNN, THIEL, BOUTELL & TANIS, P.C. 2026 Rambling Road Kalamazoo, MI 49008-1631		MAR 20 2008		ART UNIT 1661
		HJ _____ PMG _____ GMS _____ CRA _____ KC _____ FILE _____	MAIL DATE 03/17/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

NOTICE UNDER 37 CFR 1.251 - Pending Application

☐ The file on the cover sheet cannot be located after a reasonable search. Therefore, the Office is initiating the reconstruction of the file of the above-identified application pursuant to the provisions of 37 CFR 1.251.

Applicant is hereby requested to provide a copy of applicant's record (if any) of all of the correspondence between the Office and applicant for the above-identified application (except for U.S. patent documents), a list of such correspondence, and a statement that the copy is a complete and accurate copy of applicant's record of all of the correspondence between the Office and the applicant for the above-identified application (except for U.S. patent documents), and whether applicant is aware of any correspondence between the Office and applicant for the above-identified application that is not among applicant's records.

☒ The following paper(s) pertaining to the above-identified application cannot be located after a reasonable search:

The original color drawings dated 6/27/2001.

Therefore, the Office is initiating the reconstruction of such paper(s) pursuant to the provisions of 37 CFR 1.251.

Applicant is hereby requested to provide a copy of the paper(s) listed above and a statement that the copy of such paper(s) is a complete and accurate copy of applicant's record of such paper(s).

If applicant does not possess any record of the correspondence between the Office and the applicant for the file listed on the cover sheet or any copy of the paper(s) listed, applicant must reply to this notice by providing a statement that applicant does not possess any record of the correspondence between the Office and the applicant for the above-identified application.

☐ A printout from PALM of the contents of the file of the above-identified application is included with this notice.

Direct the reply to this notice to:

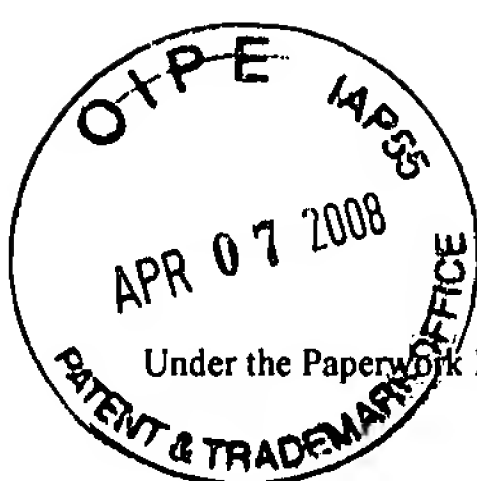
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Direct questions concerning this notice to:

Image Assistance Center/ Customer Service

1-(888)-786-0101

PTO Doc. Code: R251.NTC (Rev. 03/05)



COMMISSIONER FOR PATENTS

Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

In re Application of: ROGER D. WAY et al.
Application No.: 09/894,352
Filing Date: 06/27/2001
Title: SWEET CHERRY TREE NAMED 'NEWFANE'
Direct to: U. S. Patent and Trademark Office
Mail Stop: Duplicates
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

NOTICE UNDER 37 CFR 1.251 – Pending Application

Statement (check the appropriate box):

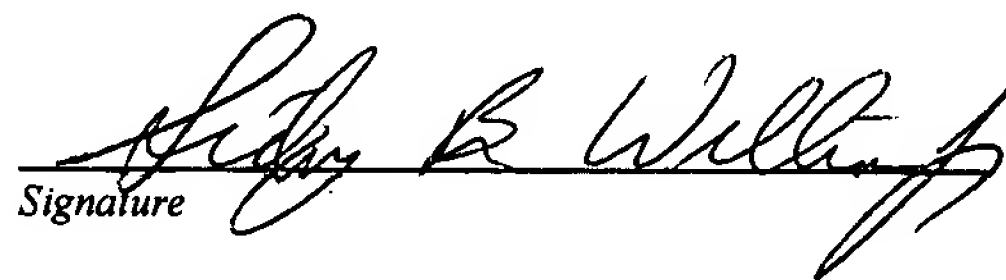
☐ The copy submitted with this reply is a complete and accurate copy of applicant's record of all of the correspondence between the Office and the applicant for the above-identified application (except for U.S. patent documents), and applicant is not aware of any correspondence between the Office and applicant for the above-identified application that is not among applicant's records.

☒ The copy of the paper(s) listed in the notice under 37 CFR 1.251 is/are a complete and accurate copy of applicant's record of such paper(s).

☐ The papers produced by applicant are applicant's complete record of all of the correspondence between the Office and the applicant for the above-identified application (except for U.S. patent documents), and applicant is not aware of any correspondence between the Office and the applicant for the above-identified application that is not among applicant's records.

☐ Applicant does not possess any record of the correspondence between the Office and the applicant for the above identified application.

April 4, 2008
Date

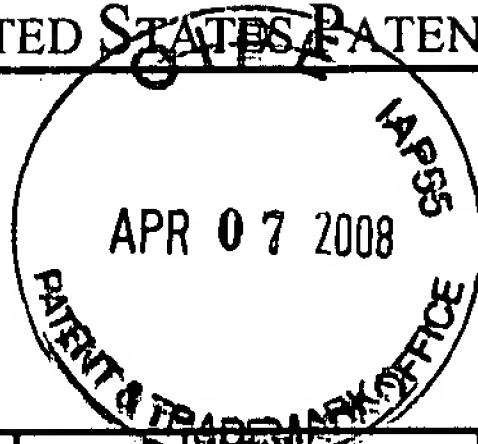

Signature
Sidney B. Williams, Jr.
Typed or printed name Reg. No. 24 949

A Copy of this notice should be returned with the reply.

Burden Hour Statement: This collection of information is required by 37 CFR 1.251. The information is used by the public to reply to a request for copies of correspondence between the applicant and the USPTO in order to reconstruct an application file. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 60 minutes to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,352	06/27/2001	Roger D. Way	4612.P0006US	7510
7590 Sidney B. Williams, Jr. FLYNN, THIEL, BOUTELL & TANIS 2026 Rambling Road Kalamazoo, MI 49008-1631			03/27/2008 DHT _____ DGB _____ FPC _____ MPC _____ LUC _____ BRT _____ SRT _____ JBY _____ SUN _____ MAR 29 2008 HJ _____ FMS _____ GMS _____ GRA _____ KO _____ FILE _____	
			EXAMINER BELL, KENT L	
			ART UNIT 1661	PAPER NUMBER
			MAIL DATE 03/27/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

FILE NO: IPM 6 ATTY: SBW
DUE DATE: 05-27-2008 (20080527)
4612.P0006US /INIT: (20080327)
ACTION: 10 RES. PER: 2 M. DK1
NEW DWGS DUE LAST / 7708



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Serial No. : 09/894352
Applicant: Way
Filing Date : 06/27/01
Date Mailed : 03/27/08

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Notice of Allowance Mailed

This application has been accorded an Allowance Date and is being prepared for issuance. The application, however, is incomplete for the reasons below.

Applicant is given 2 months from the mail date of this Notice within which to correct the informalities indicated below. If the informality pertains to the abstract, specification (including claims) or drawings, the informality must be corrected with an amendment in compliance with 37 CFR 1.121 (or, if the application is a reissue application, 37 CFR 1.173). Such an amendment may be filed after payment of the issue fee if limited to correction of informalities noted herein. See Waiver of 37 CFR 1.312 for Documents Required by the Office of Patent Publication, 1280 Off. Gaz. Patent Office 918 (March 23, 2004). In addition, if the informality is not corrected until after payment of the issue fee, for purposes of 35 U.S.C. 154(b)(1)(iv), "all outstanding requirements" will be considered to have been satisfied when the informality has been corrected. A failure to reply will result in the application being ABANDONED. **This period for reply is NOT extendable under 37 CFR 1.136(a).**

See attachment.

*Per notice 1.251 sent 03/17/08 regarding color drawings dated 06/27/01. The notice does not give a reply date for drawings. **NOTICE TO FILE CORRECTED APPLICATION PAPERS** is related document that correctly addresses drawing requirement & due date, which is 2 months from mail date as indicated above.*

A copy of this notice MUST be returned with the reply. Please address response to "Mail Stop Issue Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450".

L. Fletcher _____
Your name
Office of Patent Publication
Phone: 703-308-9250, ext. 143